

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

PURDUE PHARMA PRODUCTS L.P.,)
NAPP PHARMACEUTICAL GROUP LTD.,)
BIOVAIL LABORATORIES INTERNATIONAL,)
SRL, and ORTHO-MCNEIL, INC.,) C.A. No. 07-414-JJF
)
)
Plaintiffs/Counterclaim)
Defendants,)
)
v.)
)
PAR PHARMACEUTICAL, INC. and)
PAR PHARMACEUTICAL COMPANIES, INC.,)
)
Defendants/Counterclaim)
Plaintiffs.)
)

**PLAINTIFFS' REPLY TO THE COUNTERCLAIMS SET FORTH IN DEFENDANTS'
ANSWER AND COUNTERCLAIMS**

Plaintiffs/counterclaim defendants Purdue Pharma Products L.P., Napp Pharmaceutical Group Ltd., Biovail Laboratories International, SRL, and Ortho-McNeil, Inc. (collectively, "Plaintiffs") reply to Defendants/counterclaim plaintiffs Par Pharmaceutical, Inc. and Par Pharmaceutical Companies, Inc.'s (collectively, "Par") Counterclaims as follows:

REPLY

1. Admitted on information and belief.
2. Admitted on information and belief.
3. Admitted.
4. Admitted.
5. Admitted.

6. Admitted.

7. Par purports to assert claims arising under the patent laws of the United States, 35 U.S.C. § 1 *et seq.*, and the Declaratory Judgment Act, 28 U.S.C. §§ 2201 and 2202, and purports to seek declaratory relief. Except as expressly admitted, Plaintiffs deny the averments of Paragraph 7.

8. Par purports to base subject matter jurisdiction on the statutes listed in Paragraph 8. Plaintiffs do not contest that subject matter jurisdiction exists. Except as expressly admitted, Plaintiffs deny the averments of Paragraph 8.

9. Admitted.

10. Since May 4, 2007, Purdue Pharma Products L.P. and Napp Pharmaceutical Group Ltd. have been the assignees of U.S. Patent 6,254,887 ("the '887 patent"). Except as expressly admitted, Plaintiffs deny the averments of Paragraph 10.

11. Admitted.

12. Admitted on information and belief.

REPLY TO FIRST COUNT

13. Plaintiffs repeat and incorporate their reply to Paragraphs 1-12.

14. Denied.

15. Admitted.

16. Admitted.

17. Denied.

REPLY TO SECOND COUNT

18. Plaintiffs repeat and incorporate their reply to Paragraphs 1-12.

19. Denied.

20. Admitted.
21. Admitted.
22. Denied.

AFFIRMATIVE DEFENSES

23. The '887 patent is not invalid.
24. Par has infringed and will infringe under 35 U.S.C. § 271 the claims of the '887 patent.

WHEREFORE, Plaintiffs pray for judgment:

- A. Dismissing Par's Counterclaims;
- B. Adjudging that the '887 patent is valid;
- C. Adjudging that Par has infringed the '887 patent and that such infringement has been willful and deliberate;
- D. Adjudging, pursuant to 35 U.S.C. § 271(e)(4)(A), the effective date of any approval of Par's ANDA No. 78-783 under § 505(j) of the Federal Food, Drug and Cosmetic Act (21 U.S.C. § 355(j)) to be a date that is not earlier than the date of expiration of the '887 patent;
- E. Preliminary and permanently enjoining, pursuant to 35 U.S.C. §§ 271(e)(4)(B) and 283 and Rule 65, Fed. R. Civ. P., defendants Par Pharmaceutical Companies, Inc. and Par Pharmaceutical, Inc., their officers, agents, servants, employees, parents, subsidiaries, affiliate corporations, other related business entities and all other persons acting in concert, participation or in privity with them, and their successors and assigns, from any commercial manufacture, use, offer to sell or sale within the United States, or importation into the United States, of any drug product that infringes the '887 patent;

- F. Awarding Plaintiffs damages, together with prejudgment interest and costs, as provided by 35 U.S.C. §§ 271(e)(4)(C) and 284;
- G. Trebling the damages awarded, as provided by 35 U.S.C. § 284;
- H. Declaring this an exceptional case and awarding Plaintiffs their attorneys' fees, as provided by 35 U.S.C. §§ 271(e)(4) and 285; and
- I. Awarding Plaintiffs such other and further relief as this Court may deem just and proper.

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August 13, 2007
1205109

CERTIFICATE OF SERVICE

I, Rodger D. Smith II, hereby certify that on August 13, 2007, I caused the foregoing "Plaintiffs' Reply To The Counterclaims Set Forth In Defendants' Answer And Counterclaims" to be electronically filed with the Clerk of the Court using CM/ECF, which will send notification of such filing to the following:

Frederick L. Cottrell, III
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and that on August 13, 2007, I caused copies to be served upon the following in the manner indicated:

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